

Senate File 207 - Introduced

SENATE FILE 207

BY JOHNSON

A BILL FOR

1 An Act relating to interstate contracts for mental health
2 services.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **229.46 Interstate contracts for**
2 **services under this chapter.**

3 1. *Purpose and policy.* The purpose of this section is
4 to enable appropriate mental health treatment to be provided
5 to a person, across state lines from the person's state of
6 residence, in qualified facilities that are closer to the
7 person's home than are facilities available in the person's
8 home state.

9 2. *Definitions.* For the purposes of this section:

10 *a. "Bordering state"* means Illinois, Minnesota, Missouri,
11 Nebraska, South Dakota, or Wisconsin.

12 *b. "County"* means a county that has been exempted from the
13 requirements of section 331.389.

14 *c. "Receiving agency"* means a public or private agency,
15 region, or county which, under this section, provides mental
16 health treatment to a person from a state other than the state
17 in which the agency, region, or county is located.

18 *d. "Receiving state"* means the state in which a receiving
19 agency is located.

20 *e. "Region"* means a mental health and disability services
21 region formed in accordance with section 331.389.

22 *f. "Sending agency"* means a public or private agency located
23 in a state which sends a person to a bordering state for mental
24 health treatment under this section.

25 *g. "Sending state"* means the state in which a sending agency
26 is located.

27 3. *Purchase of services.*

28 *a.* A region or county may contract with a public or private
29 agency in a bordering state to secure services under this
30 chapter for persons who receive services through the region or
31 county.

32 *b.* This subsection shall not apply to a person who is any
33 of the following:

34 (1) Serving a criminal sentence.

35 (2) On probation or parole.

1 (3) Is the subject of a presentence investigation.

2 4. *Provision of services.* A region or county may contract
3 with a public or private agency in a bordering state to provide
4 services under this chapter for residents of the bordering
5 state in approved mental health treatment facilities in this
6 state, except that services shall not be provided for residents
7 of the bordering state who are involved in criminal proceedings
8 substantially similar to the provisions of subsection 3,
9 paragraph "b", subparagraphs (1) through (3).

10 5. *Contract approval.* A contract under this section shall
11 not be validly executed until the director of human services
12 has reviewed and approved the provisions of the contract,
13 determined that the receiving agency provides services in
14 accordance with the standards of this state, and has certified
15 that the receiving state's laws governing patient rights are
16 substantially similar to those of this state.

17 6. *Residence not established.* A person shall not establish
18 legal residence in the state where the receiving agency is
19 located while the person is receiving services pursuant to a
20 contract under this section.

21 7. *Treatment records.* Section 228.2 applies to mental
22 health treatment records of a person receiving services
23 pursuant to a contract under this section through a receiving
24 agency in this state, except that the sending agency has the
25 same right of access to the mental health treatment records of
26 the person as provided under section 228.5.

27 8. *Involuntary commitments.*

28 a. A person who is detained, committed, or placed on an
29 involuntary basis under this chapter may be confined and
30 treated in another state pursuant to a contract under this
31 section.

32 b. A person who is detained, committed, or placed on an
33 involuntary basis under the civil law of a bordering state may
34 be confined and treated in this state pursuant to a contract
35 under this section.

1 *c.* Court orders valid under the law of the sending state
2 are granted recognition and reciprocity in the receiving state
3 for a person covered by a contract under this section to the
4 extent that the court orders relate to confinement for mental
5 health treatment. Such court orders are not subject to legal
6 challenge in the courts of the receiving state.

7 *d.* A person who is detained, committed, or placed under the
8 law of a sending state and who is transferred to a receiving
9 state under this section shall be considered to be in the legal
10 custody of the authority responsible for the person under the
11 law of the sending state. Except in an emergency, such a
12 person shall not be transferred, removed, or furloughed from a
13 facility of the receiving agency without the specific approval
14 of the authority responsible for the person under the law of
15 the sending state.

16 9. *Applicable laws.* While in the receiving state pursuant
17 to a contract under this section, a person shall be subject
18 to all of the provisions of law and regulations applicable
19 to persons detained, committed, or placed pursuant to the
20 corresponding laws and regulations of the receiving state,
21 except those laws and regulations of the receiving state
22 relating to length of confinement, reexaminations, and
23 extensions of confinement. A person shall not be sent to
24 another state pursuant to a contract under this section until
25 the receiving state has enacted a law recognizing the validity
26 and applicability of this section.

27 10. *Escaped persons.* If a person receiving services
28 pursuant to a contract under this section escapes from the
29 receiving agency and the person at the time of the escape is
30 subject to involuntary confinement under the law of the sending
31 state, the receiving agency shall use all reasonable means to
32 recapture the escapee. The receiving agency shall immediately
33 report the escaped person to the sending agency. The receiving
34 state has the primary responsibility for, and the authority
35 to direct, the pursuit, retaking, and prosecution of escaped

1 persons within its borders and is liable for the cost of such
2 action to the extent that it would be liable for costs if its
3 own resident escaped.

4 11. *Contract provisions.* The terms of a contract entered
5 into under this section shall do all of the following:

6 a. Describe the mental health treatment services to be
7 provided.

8 b. Establish responsibility for the costs of all services to
9 be provided under the contract.

10 c. Establish responsibility for the transportation of
11 clients to and from receiving facilities.

12 d. Require the receiving agency to report to the sending
13 agency on the condition of each person covered by the contract.

14 e. Provide for arbitration of disputes arising out of the
15 provisions of the contract which cannot be settled through
16 discussion between the contracting parties and specify how
17 arbitrators will be chosen.

18 f. Include provisions ensuring the nondiscriminatory
19 treatment, as required by law, of employees, clients, and
20 applicants for employment and services.

21 g. Establish the responsibility for providing legal
22 representation for clients in legal proceedings involving the
23 legality of confinement and the conditions of confinement.

24 h. Establish the responsibility for providing legal
25 representation for employees of the contracting parties in
26 legal proceedings initiated by persons receiving mental health
27 treatment pursuant to the contract.

28 i. Include provisions concerning the length of the contract
29 and the means by which the contract can be terminated.

30 j. Establish the right of qualified employees and
31 representatives of the sending agency and sending state to
32 inspect, at all reasonable times, the records of the receiving
33 agency and its mental health treatment facilities to determine
34 if appropriate standards of care are being met.

35 k. Require the sending agency to provide the receiving

1 agency with copies of all relevant legal documents authorizing
2 confinement of persons who are confined pursuant to law of the
3 sending state and receiving services pursuant to a contract
4 under this section.

5 1. Include provisions specifying when a receiving facility
6 can refuse to admit or retain a person.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill relates to interstate contracts for mental health
11 services.

12 CONTRACT FOR TREATMENT. The bill provides that a region
13 or county as defined in the bill in Iowa may contract with
14 a public or private agency in a bordering state to secure
15 mental health treatment for persons in both voluntary and
16 involuntary commitment cases under Code chapter 229 who receive
17 services through a region or county in Iowa. Similarly,
18 a region or county may contract with a public or private
19 agency in a bordering state to provide services for residents
20 of the bordering state in approved treatment facilities in
21 this state. A person serving a criminal sentence, who is on
22 probation or parole, or who is the subject of a presentence
23 investigation is not eligible to receive such interstate mental
24 health treatment. The bill defines "bordering state" to mean
25 Illinois, Minnesota, Missouri, Nebraska, South Dakota, or
26 Wisconsin, "county" to mean a county that has been exempted by
27 the director of human services from being required to enter
28 into a regional mental health and disability services system,
29 and "region" to mean a mental health and disability services
30 region formed in accordance with Code section 331.389.

31 The bill provides that a contract shall not be validly
32 executed until the director of human services has reviewed
33 and approved the contract, determined that the receiving
34 agency provides services in accordance with the standards of
35 this state, and has certified that the receiving state's laws

1 governing patient rights are substantially similar to those of
2 this state. The bill specifies certain provisions that must be
3 included in the contract.

4 TREATMENT RECORDS. The bill provides that Code section
5 228.2 relating to prohibitions on the disclosure of mental
6 health information applies to mental health treatment records
7 of a person receiving services pursuant to a contract under
8 the bill through a receiving agency in this state, except that
9 the sending agency has the same right of access to the mental
10 health treatment records of the person as provided under Code
11 section 228.5 (administrative disclosures).

12 INVOLUNTARY COMMITMENTS. The bill provides that a person
13 who is detained, committed, or placed on an involuntary basis
14 under Code chapter 229 may be confined and treated in another
15 state pursuant to a contract executed under the bill and a
16 person who is detained, committed, or placed on an involuntary
17 basis under the civil law of a bordering state may be confined
18 and treated pursuant to a contract executed under the bill.
19 Court orders valid under the law of the sending state are
20 granted recognition and reciprocity in the receiving state for
21 a person covered by a contract. A person who is detained,
22 committed, or placed under the law of a sending state and who
23 is transferred to a receiving state is considered to be in the
24 legal custody of the authority responsible for the person under
25 the law of the sending state. Except in an emergency, such a
26 person shall not be transferred, removed, or furloughed from a
27 facility of the receiving agency without the specific approval
28 of the authority responsible for the person under the law of
29 the sending state.

30 APPLICABLE LAW. While in the receiving state pursuant to a
31 contract executed under the bill, a person is subject to all
32 of the provisions of law and regulations applicable to persons
33 detained, committed, or placed pursuant to the corresponding
34 laws of the receiving state, except those laws and regulations
35 of the receiving state relating to length of confinement,

1 reexaminations, and extensions of confinement.

2 ESCAPE. If a person receiving services pursuant to a
3 contract under this Code section escapes from the receiving
4 agency and the person at the time of the escape is subject to
5 involuntary confinement under the law of the sending state, the
6 receiving agency shall use all reasonable means to recapture
7 the escapee. The receiving agency shall immediately report
8 the escape to the sending agency. The receiving state has the
9 primary responsibility for, and the authority to direct, the
10 pursuit, retaking, and prosecution of escaped persons within
11 its borders and is liable for the cost of such action to the
12 extent that it would be liable for costs if its own resident
13 escaped.